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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,321

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Kakuya Yamamoto

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09/29/2008

WENDEROTH, LIND & PONACK L.L.P.

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EXAMINER

CABRERA, ZOILA E

ART UNIT

PAPER NUMBER

2123

MAIL DATE

DELIVERY MODE

09/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/587,321

**Applicant(s)**

YAMAMOTO, KAKUYA

**Examiner**

Zoila E. Cabrera

**Art Unit**

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date 9/23/08; 3/20/08; 9/29/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-14 are presented for consideration.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed to a program or software per se (see MPEP 2106.01).

To expedite a complete examination of the instant application claim 13 is rejected under 35 U.S.C. 101 (non-statutory) above and is further rejected as set forth below in anticipation of applicant amending this claim to place them within the four statutory categories of invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by

**Simpson (US 6,405,310).**

As for claims 1-11 **Simpson** discloses:

[1] A device control apparatus that controls a plurality of devices, said device control apparatus comprising:

a specification association table obtainment unit operable to obtain a specification association table in which a device and a specification of the device are associated with each other (Col. 5, lines 39-48; Fig. 5);

a use situation association table obtainment unit operable to obtain a use situation association table in which a device and a use situation of the device are associated with each other (Co. 3, lines 27-39; i.e., use situation reads on service that the device provides);

an application obtainment unit operable to obtain an application program in which a device to be controlled is described by an abstract name (Col. 2, lines 60-64; Col. 11, lines 30-35);

a condition definition table obtainment unit operable to obtain a condition definition table in which conditions that should be satisfied by the device with the abstract name are defined, the conditions being a specification-related condition and a use situation-related condition (Col. 9, lines 5-25; Col. 3, lines 33-39);

a specification-conforming device identification unit operable to identify, by referring to the condition definition table, the specification-related condition that should be satisfied by the device with the abstract name described in the application program,

and to identify, by referring to the specification association table, the device with the specification which conforms to the identified condition (Col. 9, line 65 to Col. 10, line 27; Col. 9, lines 5-25);

a use situation-conforming device identification unit operable to identify, by referring to the condition definition table, the use situation-related condition that should be satisfied by the device with the abstract name described in the application program, and to identify, by referring to the use situation association table, the device with the use situation which conforms to the identified condition (Col. 3, lines 33-39; Col. 9, lines 5-25; Col. 10, lines 6-27); and

a device control unit operable to control, based on the application program, the device identified by said specification-conforming device identification unit and which is also identified by said use situation-conforming device identification unit (Col. 10, lines 51-67; Col. 11, line 20 to Col. 12, line 55).

[2] The device control apparatus according to Claim 1, wherein the abstract name is a generic name of a device that can carry out a specific role (Col. 10, lines 51-67).

[3] The device control apparatus according to Claim 1, wherein, a set of the device with the abstract name and a command to the device is described in the application program (Col. 1, line 61 to Col. 3, line 39; Col. 11, lines 30-35).

[4] The device control apparatus according to Claim 1, further comprising a change unit operable to change details in the condition definition table (Col. 9, lines 5-18).

[5] The device control apparatus according to Claim 1, wherein the specification of the device includes a functional specification of the device, and a formal specification of the device (Col. 10, lines 50-67).

[6] The device control apparatus according to Claim 1, wherein the use situation of the device includes a location at which the device is present, and time at which the device is present (Col. 9, lines 27-33).

[7] The device control apparatus according to Claim 1, wherein the use situation of the device includes a location at which the device is used by a user, and time at which the device is used by the user (Col. 9, lines 27-33).

[8] The device control apparatus according to Claim 1, wherein the use situation of the device includes any one of a past record of the use situation, a current use situation, and a prediction for the use situation (Col. 9, lines 5-19).

[9] The device control apparatus according to Claim 1, wherein a plurality of conditions that should be satisfied by the device are defined, for a single device, in the

condition definition table, the conditions being specification-related conditions and use situation-related conditions (Col. 3, lines 27-39; Col. 9, lines 5-18).

[10] The device control apparatus according to Claim 9, wherein a priority relation among the plurality of conditions is defined in the condition definition table (Col. 9, lines 5-18).

[11] The device control apparatus according to Claim 1, wherein a plurality of users share any of a part and a whole of the condition definition table (Col. 9, lines 5-33).

As for claims 12-14, the same citations applied to claim 1 above apply as well for these claims.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zoila E. Cabrera whose telephone number is 571-272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez, can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Zoilá E. Cabrera/

Primary Examiner, Art Unit 2123